



## TEXAS DEPARTMENT OF INSURANCE

### Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

Russell B. Skinner, M.D.

**Respondent Name**

TASB Risk Management Fund

**MFDR Tracking Number**

M4-11-4545-01

**Carrier's Austin Representative**

Box Number 47

**MFDR Date Received**

August 5, 2011

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "All care was approved. There were no modifications or adjustments to treatment time per visit indicated on pre-auth letter. Our facility did not agree to the time capitation of 60 min. indicated by the carrier."

**Amount in Dispute:** \$494.00

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "... the provider failed to submit necessary documentation to support the necessity of therapy beyond 60 minutes per Medicare Policy."

**Response Submitted by:** TASB Risk Management Fund

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
February 21 – 25, 2011	Physical Therapy (97032, 97140, 97116, 97110, 97530)	\$494.00	\$0.00

### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all-applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. Texas Labor Code Chapter 504 sets out the rights and responsibilities related to *Workers' Compensation Insurance Coverage for Employees of Political Subdivisions*.
2. Texas Labor Code Chapter 413 sets out the rights and responsibilities related to *Medical Dispute Resolution*.
3. 28 Texas Administrative Code §133.307 sets out the requirements for medical fee dispute resolution.

## Issues

1. Does the requestor have the right to file for medical fee dispute resolution?
2. Did the requestor support its request for reimbursement?

## Findings

1. The respondent in this case asserts that the requestor is contracted with an intergovernmental risk pool (pool) named The Alliance. According to The Alliance's public webpage, *The Alliance* is the trade name for a group of five Texas intergovernmental risk pools ("Pools") that have joined together to exercise the option to directly contract with health care providers for the provision of workers' compensation medical benefits to the injured employees that are members of a political subdivision. Texas Labor Code Chapter 504 titled *Workers' Compensation Insurance Coverage for Employees of Political Subdivisions* authorizes health care providers to contract with intergovernmental risk pools, such as The Alliance. Specifically, Texas Labor Code Sec. 504.053(b) (2) states, in pertinent part:

If a political subdivision or a **pool** [emphasis added] determines that a workers' compensation health care network certified under Chapter 1305, Insurance Code, is not available or practical for the political subdivision or pool, the political subdivision or pool may provide medical benefits to its employees or to the injured employees of the members of the pool...(2) by directly contracting with health care providers or by contracting through a health benefits pool established under Chapter 172, Local Government Code.

A search through the health care provider directory on The Alliance's public web page at <http://www.pswca.org/> finds that the requestor, Russell B. Skinner, M.D., is listed as a contracted provider. The Division finds that the respondent's assertion that the requestor is contracted with The Alliance is supported.

The Division now considers whether the requestor has the right to file for medical fee dispute in this case. The Division concluded above that a contract authorized under Sec. 504.053(b) (2) exists between the requestor and the respondent. For this reason, Sec. 504.053 (c) (3) applies and states, in pertinent part:

If the political subdivision or **pool** [emphasis added] provides medical benefits in the manner authorized under Subsection (b) (2), the following do not apply... (3) Chapter 413, except for Section 413.042.

That is, rights granted or provisions contained within Texas Labor Code Chapter 413 titled *Medical Dispute Resolution*, with the exception of 413.042, **do not apply** to health care providers contracted with an intergovernmental risk pool such as The Alliance. Therefore, Sec. 413.031 (c) which is the section that grants health care provider's the right to file for medical fee dispute resolution does not apply. Consequently, the administrative process outlined in 28 Texas Administrative Code §133.307 titled *MDR of Fee Disputes*, established pursuant to Texas Labor Code Sec. 413.031(c), is not available to health care providers contracted with a risk pool as authorized by Sec. 504.053(b)(2).

2. No documentation was found to support that the requestor had the right to file a medical fee dispute in this case. The Division finds that the requestor, Russell B. Skinner, M.D., has failed to demonstrate that he has the right to medical fee dispute pursuant to Texas Labor Code Sec. 413.031(c) and 28 Texas Administrative Code §133.307.

## Conclusion

The requestor failed to support its request for reimbursement, as a result the amount ordered is \$0.00.

The Division emphasizes that individual medical fee dispute outcomes rely upon the evidence presented

by the requestor and respondent during dispute resolution. Even though not all the evidence was discussed, it was considered.

### ***ORDER***

Based upon the documentation submitted by the parties, the Division has determined that the requestor does not have the right to medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307. For that reason, the amount ordered is \$0.00.

### **Authorized Signature**

_____	Laurie Garnes	December 4, 2015
Signature	Medical Fee Dispute Resolution Officer	Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MFDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of this *Medical Fee Dispute Resolution Findings and Decision*, together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**